

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

UNITED STATES,

Plaintiff,

v.

Case No. 2:20-cv-991-JLB-NPM

LIONEL PEQUENO and ALECIA  
GALLEGOS,

Defendants.

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**ORDER**

Before the Court is a Renewed Application for Entry of Clerk's Default (Doc. 12).<sup>1</sup> No response was filed to the motion and the response time has lapsed. For the reasons discussed below, the Court grants the motion.

“When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend and that failure is shown by affidavit or otherwise, the clerk must enter the party's default.” Fed. R. Civ. P. 55(a). Before directing the clerk to enter a default, however, the Court must determine whether Plaintiff properly effected service of process, for which Plaintiff bears the burden of

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<sup>1</sup> The United States renewed its application after the Court denied the original application, finding no indication that a complaint was served on Lionel Pequeno and Alecia Gallegos. (Doc. 9). The United States has remedied this deficiency.

proof. Fed. R. Civ. P. 4(l); *Chambers v. Halsted Fin. Servs., LLC*, No. 2:13-CV-809-FTM-38, 2014 WL 3721209, \*1 (M.D. Fla. July 28, 2014); *Zamperla, Inc. v. S.B.F. S.R.L.*, No. 6:13-CV-1811-ORL-37, 2014 WL 1400641, \*1 (M.D. Fla. Apr. 10, 2014).

To serve an individual within a judicial district of the United States, Rule 4(e)(2) allows for service by “delivering a copy of the summons and of the complaint to the individual personally” or by “leaving a copy of [the summons and complaint] at the individual’s dwelling or usual place of abode with someone of suitable age and discretion who resides there.” Fed. R. Civ. P. 4(e)(2)(A)-(B). On January 21, 2021, Lionel Pequeno and Alecia Gallegos were served by substitute service at their residence. The process server delivered copies of the summonses and complaint to Mike Pequeno as co-resident, who resides at the residence and is of suitable age. (Doc 10, p. 1; Doc. 11, p. 1). Therefore, the Court finds the United States properly effected service of process on both Lionel Pequeno and Alecia Gallegos.

The Defendants were properly served and failed to timely respond to the Complaint (Doc. 1). Therefore, the Court finds a clerk’s default must be entered pursuant to Rule 55(a). Accordingly, it is hereby **ORDERED** that the Renewed Application for Clerk’s Default (Doc. 12) is **GRANTED** and the Clerk is directed to enter a default against Defendants Lionel Pequeno and Alecia Gallegos.

Within thirty-five (35) days after entry of a clerk's default, Plaintiff must apply for a default judgment or file a paper identifying each unresolved issue necessary to entry of the default judgment.

**DONE** and **ORDERED** in Fort Myers, Florida on April 21, 2021.

  
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NICHOLAS P. MIZELL  
UNITED STATES MAGISTRATE JUDGE